IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

INCOME TAX APPEAL No. 135 of 2007

COMM.OF INCOME TAX , BIKANER
V/S
M/S. SUNER MARBLES & GRANITES PVT. LTD.

Mr. KK BISSA, for the appellant / petitioner

Date of Order : 21.11.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

Heard learned counsel for the appellant.

It has been found by the learned Tribunal that in earlier years also when the assessee while showing the stock did not include the element of excise duty, such disclosure excluding excise duty was upheld upto the Tribunal, and that has not been challenged by the Revenue.

In that view of the matter if during subsequent years also the assessee while making disclosure of the stock did not include the element of excise duty it cannot be said to be a case of escapement entitling the assessing authority to initiate proceedings on the ground of escapement, and may be that as contended by the learned counsel for the appellant that the excise duty was required to be included in the stock as the view has been taken by

Hon'ble the Supreme Court but then here the case is that in the case of this assessee as noticed above even in previous year it was held that it was not necessary to include the element of excise duty. In that view of the matter, it cannot be said that it is a case of escapement. Thus, we do not find any ground to interfere with the impugned order of the learned Tribunal.

The appeal is, therefore, dismissed summarily.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

/sushil/